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10/667,332	09/23/2003	Gabriel Wechter	200311662	9280

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2142

MAIL DATE	DELIVERY MODE
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08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,332

Applicant(s)

WECHTER ET AL.

Examiner

Douglas B. Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34, 36 and 38 is/are rejected.
- 7) ☒ Claim(s) 35, 37, and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 1-39 are currently pending claims 34-39 were added by amendment.
2. The applicant's amendment to the specification, incorporating by reference application number 10/667,962 is acknowledged. All objections to the applicant's specification have been withdrawn.

Response to Arguments

3. Applicant's arguments filed 7/27/2007 have been fully considered but they are not persuasive.
4. The applicant argues that the "typical computer display" taught by Chin is not equivalent to the claimed discovery agent. The Examiner disagrees with the applicant's arguments because the applicant is ignoring the broad nature of the claims. Clearly the display taught by Chin is able to obtain information about the network, otherwise it would have nothing to display. The cited portion of Chin shows that the display is "discovering" information about the network. If the applicant disagrees with this interpretation, then the applicant should point out how the applicant's specification defines a "discovery agent" in a limiting way instead of making unsupported allegations that one skilled in the art would know that Chin teachings differ from the applicant's.
5. The applicant then argues that Hinchliffe does not teach the claimed feature of "grouping the nodes into zones as a function of relationships among the nodes, such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the

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network.” The applicant concedes that Hinchliffe groups computers such that a number of computers within each group does not exceed a certain number. This certain number is considered “a threshold that is based on an operational capacity”. Hinchliffe reads on the applicant’s broadly claimed invention.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-7, 10-13, 15-18, 21-24, 26-29, 32-34, 36, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,805,819 to Chin et al. (Part of IDS filed 4/6/2005).

8. As to claim 1, Chin teaches a method for managing a network of nodes, comprising: receiving information identifying the nodes of the network (col. 5, lines 33-35); and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 35-36), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 9, lines 12-28, the “typical computer display” is the “discovery agent”).

9. As to claim 2, Chin teaches the method of claim 1, wherein the nodes are organized in groups and the grouping comprises: evaluating each group with the threshold that is based on an

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operational capacity of a discovery agent assigned to discover the network (col. 9, lines 12-19);

and dividing each group exceeding the threshold into new groups (col. 9, lines 20-28).

10. As to claim 4, Chin teaches the method of claim 2, comprising performing the evaluating and dividing until all groups do not exceed the threshold (col. 9, lines 20-28).

11. As to claim 5, Chin teaches the method of claim 4, comprising combining two of the groups to form a single group that does not exceed the threshold (col. 10, lines 26-34).

12. As to claim 6, Chin teaches the method of claim 5, comprising repeating the combining until no further combinations not exceeding the threshold are possible (col. 10, lines 26-44).

13. As to claim 7, Chin teaches the method of claim 5, wherein the two groups are the two smallest groups of all the groups (col. 10, lines 26-34).

14. As to claim 10, Chin teaches the method of claim 7, wherein the two groups have at least one node in common (col. 10, lines 51-65).

15. As to claim 11, Chin teaches the method of claim 10, wherein the at least one node in common is a router (col. 10, lines 51-65).

16. As to claim 12, Chin teaches a system for managing a network of nodes, comprising: means for receiving (col. 4, line 39, the processing means) information identifying the nodes of the network (col. 5, lines 33-35), and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 35-36), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 9, lines 12-28, the “typical computer display” is the “discovery agent”); and means for connecting to the network (col. 4, line 38, the communication means).

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17. As to claims 34, 36, and 38, Chin teaches refining the threshold based on group characteristics (col. 9, lines 12-28).

18. As to claims 13, 15-18, and 21-22, they feature a system that implements the method of claims 2, 4-7, and 10-11. Therefore they are rejected for the same reasons as the system of claim 12 and they method of claims 2, 4-7, and 10-11.

19. As to claims 23-24, 26-29, and 32-33, they feature a medium that implements the method of claims 1-2, 4-7, and 10-11 and are rejected for the same reasoning as claims 1-2, 4-7 and 10-11.

20. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 12-15, 23-26, 34, 36, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 7,159,036 to Hinchliffe et al.

21. As to claim 1, Hinchliffe teaches a method for managing a network of nodes, comprising: receiving information identifying the nodes of the network (col. 5, lines 36-44); and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 45-48), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 5, lines 56-64).

22. As to claim 2, Hinchliffe teaches the method of claim 1, wherein the nodes are organized in groups and the grouping comprises: evaluating each group with the threshold that is based on

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an operational capacity of a discovery agent assigned to discover the network (col. 5, lines 56-64); and dividing each group exceeding the threshold into new groups (col. 5, lines 56-64).

23. As to claim 3, Hinchliffe teaches the method of claim 2, wherein the groups are subnets, segments of subnets, or subsets of segments (col. 7, lines 58-66).

24. As to claim 4, Hinchliffe teaches the method of claim 2, comprising performing the evaluating and dividing until all groups do not exceed the threshold (col. 5, lines 56-64).

25. As to claim 12, Hinchliffe teaches a system for managing a network of nodes, comprising: means for receiving (col. 5, line 26, the source computer) information identifying the nodes of the network (col. 5, lines 36-44), and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 45-48), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 5, lines 56-64); and means for connecting to the network (col. 8, lines 22-23, the network interface card).

26. As to claims 34, 36, and 38, Hinchliffe teaches refining the threshold based on group characteristics (col. 5, lines 35-64).

27. As to claims 13-15, they feature a system that implements the method of claims 2-4. Therefore they are rejected for the same reasons as the system of claim 12 and they method of claims 2-4.

28. As to claims 23-26, they feature a medium that implements the method of claims 1-4 and are rejected for the same reasoning as claims 1-4.

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29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claims 8-9, 19-20, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,805,819 to Chin et al. in view of U.S. Patent Number 7,159,036 to Hinchliffe et al.

31. As to claim 8, Chin teaches the method of claim 7, wherein the two groups are the smallest groups sharing a common network entity (col. 10, lines 45-46), however Chin does not explicitly teach the groups being a part of a subnet.

Hinchliffe teaches grouping nodes based on their subnet (col. 7, lines 58-59).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Chin regarding the combination of groups with the teachings of Hinchliffe regarding grouping nodes based on their subnet because the groups sharing a common network entity could reasonably be part of the same subnet.

32. As to claim 9, it is rejected to similar reasons as those presented in the rejection of claim 10 based on Chin.

33. As to claims 19-20 and 30-31, they are rejected for the same reasons as claims 8-9.

Allowable Subject Matter

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34. Claims 35, 37, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

35. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record was not found to teach or make obvious the idea of refining a threshold based on a ratio of a number of interface to a number of nodes in a group of nodes as required by the newly added claims 35, 37, and 39.

Conclusion

36. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is (571) 272-3893. The examiner can normally be reached on 9:00am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Douglas Blair

DBB



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER